

**STATE WATER RESOURCES CONTROL BOARD  
RESOLUTION NO. 2010-0015**

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE CENTRAL COAST REGION (BASIN PLAN) TO (1) ADD TOTAL MAXIMUM DAILY LOADS FOR FECAL COLIFORM IN THE PAJARO RIVER WATERSHED (INCLUDING PAJARO RIVER, SAN BENITO RIVER, LLAGAS CREEK, TEQUISQUITA SLOUGH, SAN JUAN CREEK, CARNADERO/UVAS CREEK, BIRD CREEK, PESCADERO CREEK, TRES PINOS CREEK, FURLONG (JONES) CREEK, SANTA ANA CREEK, AND PACHECHO CREEK); (2) ADD A DOMESTIC ANIMAL WASTE DISCHARGE PROHIBITION; AND (3) ADD A HUMAN FECAL MATERIAL DISCHARGE PROHIBITION

WHEREAS:

1. On March 20, 2009, the Central Coast Regional Water Quality Control Board (Central Coast Water Board) adopted Resolution No. R3-2009-0008 ([Attachment I](#)) amending the Basin Plan to: (1) add Total Maximum Daily Loads (TMDLs) for fecal coliform in the Pajaro River Watershed; (2) add a domestic animal waste discharge prohibition; and (3) add a human fecal material discharge prohibition.
2. The Central Coast Water Board may prohibit certain types of waste discharge pursuant to California Water Code section 13243. The implementation plan for the TMDLs for the Pajaro River Watershed requires compliance with two prohibitions for fecal material pollution discharges. Supporting documentation for creation of the domestic animal waste discharge prohibition and human fecal material discharge prohibition is provided in the Final Project Reports for Total Maximum Daily Load for fecal coliform in Pajaro River, San Benito River, Llagas Creek, Tequisquita Slough, San Juan Creek, Carnadero/Uvas Creek, Bird Creek, Pescadero Creek, Tres Pinos Creek, Furlong (Jones) Creek, Santa Ana Creek, and Pachecho Creek. Consistent with California Water Code section 13244, the Central Coast Water Board complied with public notice and hearing requirements for the prohibitions.
3. The Central Coast Water Board found that the adoption of these TMDLs for the Pajaro River Watershed were consistent with the provisions of State Water Board [Resolution No. 68-16](#), "Statement of Policy with Respect to Maintaining High Quality of Waters in California" and 40 CFR 131.12.
4. The elements of a TMDL are described in 40 CFR 130.2 and 130.7, section 303(d) of the Clean Water Act, and U.S. EPA guidance documents. A TMDL is defined as "the sum of individual waste load allocations for point sources and load allocations for nonpoint sources and natural background" (40 CFR 130.2). The Central Coast Water Board determined that the TMDLs for fecal coliform in the Pajaro River Watershed are set at levels necessary to attain and maintain the applicable numeric water quality objectives taking into account seasonal variations and any lack of knowledge or uncertainty concerning the relationship between effluent limitations and water quality (40 CFR 130.7 (c) (1)). The regulations in 40 CFR 130.7 also state that TMDLs shall take into account critical conditions for stream flow, loading, and water quality parameters. TMDLs are often expressed as a mass load of the pollutant but can be expressed as a unit of concentration if appropriate (40 CFR 130.2(i)). Expressing these TMDLs as units of concentration is

appropriate because an existing concentration-based water quality objective is used as the basis for the TMDLs numeric target.

5. The Central Coast Water Board concurred with the analysis contained in the Final Project Report, the California Environmental Quality Act (CEQA) "Substitute Environmental Document" for the Basin Plan Amendments, including the CEQA Checklist, the staff report and the responses to comments, and found that these analyses comply with the requirements of the State Water Board's certified regulatory CEQA process, as set forth in California Code of Regulations, Title 23, section 3775 et seq. Furthermore, the Central Coast Water Board found that these analyses fulfill the Central Coast Water Board's obligations attendant with the adoption of regulations "requiring the installation of pollution control equipment, or a performance standard or treatment requirement," as set forth in section 21159 of the Public Resources Code. The Central Coast Water Board's environmental analysis has taken into account a reasonable range of environmental, economic, and technical factors.
6. The State Water Board finds that the Basin Plan amendment is in conformance with Water Code section 13240, which specifies that Regional Water Quality Control Boards may revise Basin Plans; section 13242, which requires a program of implementation to achieve water quality objectives; and section 13243 which authorizes Regional Water Quality Control Boards to specify certain conditions or areas where the discharges of certain types of waste will not be permitted. The State Water Board also finds that the TMDLs, as reflected in the Basin Plan amendment, are consistent with the requirements of federal Clean Water Act (CWA) section 303(d).
7. The regulatory action meets the "Necessity" standard of the Administrative Procedure Act, Government Code, section 11353, subdivision (b). The necessity of developing a TMDL is established in the TMDLs project report, the section 303(d) list, and the data contained in the administrative record documenting the pathogen impairments of the Pajaro River Watershed.
8. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). The TMDLs must also receive approval from the U.S. Environmental Protection Agency.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the amendment to the Basin Plan adopted under Central Coast Water Board Resolution No. R3-2009-0008.

2. Authorizes the Executive Director or designee to submit the amendment adopted under Central Coast Water Board Resolution No. R3-2009-0008, as approved, and the administrative record for this action to the OAL and the TMDLs to the U.S. Environmental Protection Agency for approval.

### CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on April 20, 2010.

AYE:            Chairman Charles R. Hoppin  
                    Vice Chair Frances Spivy-Weber  
                    Board Member Arthur G. Baggett, Jr.  
                    Board Member Tam M. Doduc  
                    Board Member Walter G. Pettit

NAY:            None

ABSENT:        None

ABSTAIN:       None



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Jeanine Townsend  
Clerk to the Board